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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,581	04/16/2004	Ned E. Mott	3782.002	1756
24040	7590	05/05/2006	EXAMINER	
DENNIS G. LAPOINTE LAPOINTE LAW GROUP, PL PO BOX 1294 TARPON SPRINGS, FL 34688-1294			DONDERO, WILLIAM E	
			ART UNIT	PAPER NUMBER
			3654	

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/826,581	Applicant(s) MOTT ET AL.	
	Examiner William E. Dondero	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>07/01/04</u> .  | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4, and 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Fultz et al. (US-2090445). Regarding Claim 1, Fultz et al. disclose a cable winch system comprising a drum 10, the drum being means for winding and unwinding at least one cable 14; means 13 (Column 2, Lines 15-22) for rotating the drum for winding and unwinding at least one cable; a cable guide 29, the cable guide including tow parallel elongate members 31 wherein the elongate members are spaced apart to allow for the at least one cable to freely travel in between the elongate members and for guiding the winding and unwinding of the at least one cable on the drum; the cable guide being pivotally attached to means for oscillating 21 the cable guide so as to cyclically guide the at least one cable for evenly distributed winding and unwinding of the at least one cable along one end of the drum to an opposite end of the drum; and remote oscillation operating means 32 in mechanical communication with the means for oscillating the cable guide, the remote oscillation operating means being operable independent of the means for rotating the drum, the remote oscillation operating means extending to a side of the one of the ends of the drum (when pivoted to the end of each traversal stroke) so as to be in a non-interfering relationship with the oscillation of the cable guide, and the

remote oscillation operating means further having handle means 32 for remote manual operation of the remote oscillation operating means, the handle means being located outside and envelope of the cable oscillation movements of the cable guide, wherein a winch operator manually operating the remote operating handle means can not be entrapped during operation of the remote operating handle means in the at least one cable passing through the cable guide for winding on the drum or unwinding from the drum (Figures 1, 2, and 6). Regarding Claim 2, Fultz et al. further disclose the remote oscillation means includes a shaft 26 in mechanical communication on one end of said shaft with the means for oscillating the cable guide (Figures 2 and 3). Regarding Claim 4, Fultz et al. also disclose the handle means is attached on an opposite end of the shaft (Figures 2, 3 and 6). Regarding Claim 6, Fultz et al. disclose the cable guide further comprises a removable cable travel securement means (bottom 31, removable by removing the screw and nut which are shown but not numbered) at an opposite end of the cable guide pivot attachment to the means for oscillating the cable guide, the removable cable travel securement means being means for preventing the at least one cable from exiting outside the space between the parallel elongate members (Figures 1, 4, and 6). Regarding Claim 7, Fultz et al. disclose the cable guide parallel elongate members comprise an inner elongate member (screws shown but not numbered) and an outer concentric freely rotatable elongate member (pulleys shown but not numbered) (Figures 1 and 4; Column 3, Lines 11-14).

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Arduser (US-1131103). Regarding Claim 1, Arduser discloses a cable winch system comprising

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a drum 5, the drum being means for winding and unwinding at least one cable 4; means 14, 15, 16 (Page 1, Lines 84-99) for rotating the drum for winding and unwinding at least one cable; a cable guide 30, the cable guide including two parallel elongate members (shown but not numbered) wherein the elongate members are spaced apart to allow for the at least one cable to freely travel in between the elongate members and for guiding the winding and unwinding of the at least one cable on the drum; the cable guide being pivotally attached to means for oscillating 31, 36 the cable guide so as to cyclically guide the at least one cable for evenly distributed winding and unwinding of the at least one cable along one end of the drum to an opposite end of the drum; and remote oscillation operating means (handle at end of 36) in mechanical communication with the means for oscillating the cable guide, the remote oscillation operating means being operable independent of the means for rotating the drum, the remote oscillation operating means extending to a side of the one of the ends of the drum (when pivoted to the end of each traversal stroke) so as to be in a non-interfering relationship with the oscillation of the cable guide, and the remote oscillation operating means further having handle means (at end of 36) for remote manual operation of the remote oscillation operating means, the handle means being located outside and envelope of the cable oscillation movements of the cable guide, wherein a winch operator manually operating the remote operating handle means can not be entrapped during operation of the remote operating handle means in the at least one cable passing through the cable guide for winding on the drum or unwinding from the drum (Figures 1). Regarding Claims 2 and 3, Arduser further discloses the remote oscillation means includes a shaft

32 in mechanical communication on one end of said shaft with the means for oscillating the cable guide and is aligned in a generally parallel relationship to an axis of rotation of the drum (Figure 1). Regarding Claim 4, Arduser also discloses the handle means is attached on an opposite end of the shaft (Figures 1). Regarding Claim 5, Arduser discloses the shaft is attached to a universal joint fitting 31, 34, 35 which in turn is in mechanical communication with the means for oscillating the cable guide (Figures 1 and 2).

### ***Claim Rejections - 35 USC § 103***

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fultz et al. (US-2090445) as applied to claims 1-2, 4, and 6-7 above, and further in view of Cleveland (US-5474278). Fultz et al. are silent about the outer freely rotatable elongate member being made from materials selected from the group consisting of polymer composites, metals, and combinations thereof. However, Cleveland discloses rotatable elongate member 75, 75 being made from metal (Figure 6, Column 3, Lines 64-66). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the outer freely rotatable elongate member of the winch system of Fultz et al. from metal to maintain low friction between the member and the cable as taught by Cleveland (Column 3, Lines 64-66).

### ***Response to Arguments***

With respect to Applicant's arguments starting on page 8, line 3 to page 9, line 2, applicant argues the reel system of Hughes is not applicable to the fishing trawler application of the instant application. In response to applicant's arguments, the

recitation "A fishing vessel cable winch system for lowering nets into the water and raising nets from the water" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

With respect to Applicant's arguments starting on page 9, line 3 to page 9, line 8, applicant argues the shaft of Hughes is part of the reel drive system and not connected to the ball joint. This argument, with respect to the rejection(s) of claim(s) 2-3, and 5 under 35 USC 102 (b) has been fully considered and is persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of a newly found reference.

With respect to Applicant's arguments starting on page 9, line 9 to page 9, line 13, applicant argues there is no disclosure of the outer elongate members being freely rotatable. This argument has been considered but is moot in view of the new ground(s) of rejection.

With respect to Applicant's arguments starting on page 10, line 13 to page 11, line 7, applicant argues Hughes does not disclose the remote oscillation operating means independent of the means for rotating the drum, in a non-interfering manner with the cable oscillation, and outside of the envelop of the cable oscillations. This

argument, with respect to the rejection(s) of claim(s) 1-8 under 35 USC 102 (b) has been fully considered and is persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of a newly found reference.

With respect to Applicant's arguments starting on page 11, line 8 to page 12, line 2, applicant argues Hughes and Buttles can not be combined. This argument has been considered but is moot in view of the new ground(s) of rejection.

With respect to Applicant's arguments starting on page 12, line 3 to page 12, line 12, applicant argues Hughes and Cleveland can not be combined. This argument has been considered but is moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment, such as the addition of the limitation, "said remote oscillation operating means being operable independent of the means for rotating the drum," to lines 13-14 of Claim 1, necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any



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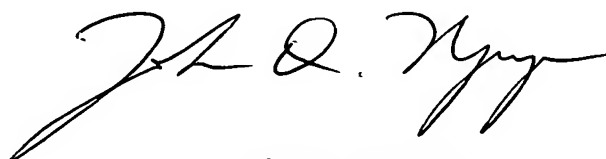
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Dondero whose telephone number is 571-272-5590. The examiner can normally be reached on Monday through Friday 7:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on 571-272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

wed



**JOHN Q. NGUYEN**  
**PRIMARY EXAMINER**